REMARKS

Claims 1 - 69 have been canceled by a prior amendment without prejudice or disclaimer of the subject matter thereof.

Claims 70, 80, 81, 88, 89, 97, 106, 112, 113 and 114 have been amended.

Claims 70 – 115 are present in the subject application.

In the Office Action dated January 26, 2007, the Examiner has rejected claims 70 - 115 under 35 U.S.C. §112, first and second paragraphs, and has rejected claims 97 - 112 under 35 U.S.C. §102(b). Favorable reconsideration of the subject application is respectfully requested in view of the following remarks.

The Examiner has rejected claims 70 - 115 under 35 U.S.C. §112, first and second paragraphs, as failing to comply with the enablement requirement and as being indefinite. These rejections are respectfully traversed.

The Examiner takes the position that independent claims 70, 81, 89, 97, 106 and 112 all recite the features of medical items including a particular temperature range for utilization and a prescribed time interval for thermal treatment, and that the manner in which this information is "included" with the medical item is not discussed in the specification. The Examiner asserts that this further renders the claims indefinite under 35 U.S.C. §112, second paragraph.

In order to expedite prosecution of the subject application, independent claims 70, 81, 89, 97, 106 and 112 have been amended and recite that the medical items are associated with a particular temperature range for utilization and a time interval for thermal treatment. These features are supported throughout the specification. For example, the specification indicates entry and maintenance of a set point temperature for the medical items (e.g., See Specification Page 6, lines 25 - 27 and Page 20, lines 15 - 18), and for certain embodiments, setting the desired

temperature to slightly below the medical item end use or operating temperature (e.g., See Specification Page 22, lines 23 - 24). Further, the specification indicates that maximum time intervals may be entered for the medical items (e.g., See Specification Page 17, lines 23 - 24). Thus, the specification clearly supports medical items with associated temperature ranges and thermal treatment time intervals as recited in the claims. Since these features are clearly recited in the claims, the claims are considered to be definite.

The Examiner takes the further position that claims 70, 82, 90, 97 and 107 all recite the features of a monitor unit to control thermal treatment ... and to monitor ... temperature and ... residence time of a medical item for compliance with a particular temperature range and ... thermal treatment time interval, and that the specification fails to discuss such monitoring for the purpose of compliance with a temperature range and treatment time interval. However, these features are supported throughout the specification. For example, the specification indicates entry and maintenance of a set point temperature for the medical items (e.g., See Specification Page 6, lines 25 - 27 and Page 20, lines 15 - 18), and that maximum time intervals may be entered for the medical items (e.g., See Specification Page 17, lines 23 - 24) as described above. The specification further indicates that the system may provide an indication relating to whether or not a maximum heating time has been exceeded for a particular medical item (e.g., See Specification Page 18, lines 15 - 19) and an indicator or alarm to notify a user when a medical item has exceeded the set point temperature (e.g., See Specification Page 18, lines 20 - 27). Thus, the specification clearly supports the monitoring of temperature and residence time for compliance with temperature ranges and thermal treatment time intervals as recited in the claims.

The Examiner further asserts that claims 88 and 112 recite the features of indicating to a user prior thermal treatment of a medical item, and that a discussion of temperature and

residence time indicating prior treatment is absent from the specification. In order to expedite prosecution of the subject application, claims 80, 88, 89 and 112 have been amended and recite that a state of thermal treatment of at least one medical item is indicated prior to insertion within a thermal treatment unit. These features are supported throughout the specification. For example, the specification indicates that monitoring assemblies include temperature sensors to directly measure the medical item temperature upon insertion of that item into a drawer receptacle. The drawer is subsequently inserted into the compartment (e.g., See Specification Page 20, lines 22 - 26). The monitoring assemblies include wiring extending to a drawer connector that is coupled by a cable to a warmer unit connector connected to the controller. The controller displays the measured temperature (e.g., See Specification Page 16, lines 29 - 30 and Page 18, lines 1 - 9). The cable maintains coupling between the connectors during insertion and removal of the drawer within the compartment (e.g., See Specification Page 16, lines 20 - 26). Thus, the specification discloses a medical item inserted into a drawer removed from the compartment, where the temperature sensor measures the temperature of the medical item for display prior to insertion of the drawer (and the item) into the compartment. Accordingly, the claimed features of indicating a state of thermal treatment of at least one medical item prior to insertion within a thermal treatment unit are clearly supported by the specification.

Since independent claims 70, 81, 89, 97, 106 and 112 are considered to be definite and supported by the specification as discussed above, their corresponding dependent claims are similarly considered to be definite and supported by the specification. Accordingly, claims 70 - 115 are considered to comply with 35 U.S.C. §112, first and second paragraphs. In addition, since claims 70 - 111 have not been rejected based on cited art, these claims are considered to be in condition for allowance.

The Examiner has rejected claims 97 - 112 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,923,681 (Cox et al.). Briefly, the present invention is directed towards a surgical warming system including at least one and generally two or more compartments, whereby each compartment is separately heatable and controllable over its own range of temperatures. The compartments may be implemented as separate warmer units in stacked relation. Alternatively, the compartments may be constructed into a single cabinet structure. Each individually controllable compartment enables an operator to simultaneously maintain the individual compartments of the same warming system at different desired temperatures. In addition, the warming system further includes for each compartment a display and a tray or drawer with individual receptacles and corresponding monitoring assemblies in order to indicate the temperature and residence time of each item heated within that compartment.

The Examiner takes the position that the Cox et al. patent discloses the features within these claims.

This rejection is respectfully traversed. However, in order to expedite prosecution of the subject application, independent claims 97, 106 and 112 have been amended. In particular, independent claim 97 has been amended and recites the features of monitoring the temperature and residence time of at least one medical item via the thermal treatment system. Further, independent claim 106 has been amended and recites the features of determining, via the thermal treatment system, when at least one of insertion and removal of a medical item occurs and indicating this occurrence to a user. Moreover, independent claim 112 has been amended and recites the features of indicating to a user, via a visual indicator, a state of thermal treatment of at least one medical item prior to insertion within a thermal treatment unit.

The Cox et al. patent does not disclose, teach or suggest these features. Rather, the Cox et al. patent discloses a high velocity hot air sterilization device. The device includes a housing having a sterilization chamber with a temperature sensor mounted therein, a hot air plenum including a blower in fluid communication with a heating element and the sterilization chamber for inputting hot air into and receiving hot air from the sterilization chamber for recirculation and a control chamber having a temperature sensing circuit, power circuits, a controller and a control panel (e.g., See Abstract). The temperature sensor senses the temperature of the hot air within the sterilization chamber (e.g., See Column 7, lines 11 - 13). The controller includes a timer and display for displaying the measured temperature and time remaining for completion of a selected cycle. The cycle (and hence the timer) is restarted whenever the temperature is below the required temperature, preferably 375° F (e.g., See Column 5, lines 53 - 65; Column 7, lines 42 - 43; and Column 10, lines 19 - 22). The display shows the time remaining for completion of the selected cycle, where the time is decremented in response to attainment of the operating temperature (e.g., See Column 5, lines 61 - 64 and Column 10, lines 23 - 26).

Thus, the Cox et al. patent discloses a sterilization system that measures the temperature of heated air for sterilization, as opposed to the temperature of a medical item as recited in independent claim 97. Further, the displayed time is relative to the time within a cycle. Since this time is restarted in response to a low temperature measurement during a cycle, while the timer is not decremented until the operating temperature is reached, the displayed time does not provide the actual residence time of an item within the system as recited in claim 97. For example, the displayed time does not account for the time that an item is resident within the system while the system is being heated to attain the desired operating temperature. Moreover, the displayed time is reset during a cycle in response to a low temperature measurement, thereby

providing no correlation or point of reference to the time an item is actually residing in the system.

As discussed above, the Cox et al. patent measures the temperature of heated air within the system, and does not measure a state of thermal treatment of a medical item prior to insertion within the thermal treatment unit as recited in independent claim 112. In addition, there is no disclosure, teaching or suggestion of the system detecting when items are placed within or removed from the system as recited in independent claim 106.

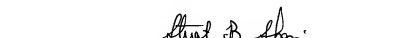
Since the Cox et al. patent does not disclose, teach or suggest, the features recited in independent claims 97, 106 and 112 as discussed above, these claims are considered to be in condition for allowance.

Claims 98 - 105 and 107 - 111 depend, either directly or indirectly, from independent claims 97 and 106, respectively, and, therefore, include all the limitations of their parent claims. The dependent claims are considered to be in condition for allowance for substantially the same reasons discussed above in relation to their parent claims and for further limitations recited in the dependent claims.

Claims 113 - 115 depend, either directly or indirectly, from independent claim 112, where claims 113 and 114 have been amended for consistency with their amended parent claim. Since parent claim 112 is considered to be in condition for allowance as discussed above, and since the Examiner has not rejected claims 113 - 115 based on cited art, claims 113 - 115 are similarly considered to be in condition for allowance.

The application, having been shown to overcome issues raised in the Office Action, is considered to be in condition for allowance and a Notice of Allowance is earnestly solicited.

Respectfully submitted,



Stuart B. Shapiro
Registration No. 40,169

EDELL, SHAPIRO & FINNAN, LLC
1901 Research Boulevard, Suite 400
Rockville, Maryland 20850-3164
(301) 424-3640

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